

TITLE 38.—VETERANS' BENEFITS

This title was enacted by Pub. L. 85-857, Sept. 2, 1958, § 1, 72 Stat. 1105.

Part	Sec.	Title 38 former sections:	Title 38 new sections
I. General Provisions.....	101	16e.....	5206.
II. General Benefits.....	301	16f.....	5207.
III. Readjustment and Related Benefits.....	1501	16g.....	5208.
IV. General Administrative Provisions.....	3001	16h.....	601 (4), 5209.
V. Boards and Departments.....	4001	16i.....	5210.
VI. Acquisition and Disposition of Property....	5001	16j.....	Omitted.
		17.....	5220.
		17a.....	5221.
		17b.....	5222.
		17c.....	5223.
		17d.....	5224.
		17e.....	5225.
		17f.....	5226.
		17g.....	5227.
		17h.....	5228.
		17i.....	Omitted.
		17j.....	210 (c).
		21—24.....	Omitted.
		25—26a.....	3104.
		26b, 26c.....	3105.
		27—31.....	Omitted.
		32 32a.....	108.
		33.....	3102.
		34.....	902.
		35.....	Omitted.
		36.....	3102 (b).
		37.....	101 (4).
		38.....	107 (a).
		39, 39a.....	505.
		41.....	3002.
		42—49.....	Omitted.
		49a.....	3107.
		50.....	3020.
		51—57.....	Omitted.
		58.....	See 3011.
		71—75.....	Omitted.
		76.....	111 (a)—(c).
		77.....	11. (d).
		91—95.....	Omitted.
		96.....	See 3021.
		97.....	Omitted.
		101.....	3402, 3403.
		102.....	3404.
		103.....	3405.
		104.....	Omitted.
		111.....	3404.
		112—116.....	Omitted.
		121—124.....	Omitted.
		125.....	3301.
		126.....	T. 18, § 289.
		127.....	3501.
		128.....	3502.
		129.....	Omitted.
		131.....	3311.
		132.....	3312.
		133.....	3313.
		134.....	Omitted.
		151—179.....	Omitted.
		191.....	101 (3), (4), 532, 533.
		192.....	101 (3), 302.
		200.....	3107.
		201.....	Omitted.
		202.....	101 (4).
		203—206.....	Omitted.
		221—232.....	Omitted.
		238, 238a.....	Omitted.
		241—250.....	Omitted.
		251.....	614.

TABLE

Showing disposition of all sections of former Title 38.

Title 38 former sections:	Title 38 new sections
1—3.....	Omitted.
4.....	214.
5—9.....	Omitted.
10.....	215.
11.....	201, 210 (b).
11a.....	101 (1), 210 (a), 210 (b)
11a-1.....	Omitted.
11a-2.....	211 (a).
11a-3.....	233.
11b.....	5006.
11c to 11d-1.....	Omitted.
11e.....	214.
11f.....	Omitted.
11g.....	202.
11h.....	3303.
11i.....	5014.
11j.....	233 (1), (2).
11k.....	233 (4).
11l.....	3204.
12.....	Omitted.
12a.....	5011.
13.....	4201, 4202.
13a.....	4202.
13b.....	4203.
13c.....	4204, 4205.
13d.....	4205.
13e.....	4206.
13f.....	4207.
13g.....	4208.
14.....	5101.
14a.....	5102.
14b.....	5103.
14c.....	5104.
14d.....	5105.
14e.....	214.
15.....	4101.
15a.....	4102.
15b.....	4103.
15c.....	4104.
15d.....	4105.
15e.....	4106.
15f.....	4107.
15g.....	4108.
15h.....	4109.
15i.....	4110.
15j.....	4111.
15k.....	4112.
15l.....	4113.
15m.....	4114.
15n.....	4115.
16.....	5201.
16a.....	5202.
16b.....	5203.
16c.....	5204.
16d.....	5205.

Title 38 former sections:	Title 38 new sections
252.....	Omitted.
252a.....	1901 (a).
252b.....	1902.
252c.....	1903.
252d.....	1904.
252e.....	1905.
253.....	216 (a), (c).
254.....	216 (b).
261—274.....	Omitted.
275.....	532 (c).
276.....	532 (a), (b), 533.
277.....	532 (a), (b), 533, 535.
281.....	101 (4).
282.....	Omitted.
283.....	532 (d).
284—287.....	Omitted.
288.....	532 (a)—(c), 533.
289, 290.....	Omitted.
291.....	101 (3), 532 (a).
291a—291d.....	Omitted.
292.....	531.
293.....	101 (3), 532 (d).
294.....	101 (3).
311—314.....	Omitted.
321—323.....	Omitted.
324—326c.....	See 3404.
327—332.....	Omitted.
341.....	3102 (a).
341a—341d.....	Omitted.
341e.....	See 3404.
341f.....	Omitted.
351—354.....	Omitted.
355.....	101 (3), (4).
356.....	101 (3), (4).
357.....	Omitted.
357a.....	3010 (c).
357b—362.....	Omitted.
363.....	See 3404, 3405.
364.....	Omitted.
364a.....	101 (3), (4), 536, 537.
364b—364d.....	Omitted.
364e.....	See 3404, 3405.
364f.....	Omitted.
364g.....	536.
364g-1.....	536, 537.
364h.....	101 (3), 302.
364i.....	536.
364j.....	536, 537.
365—365e.....	Omitted.
365f.....	See 3404.
365g—370e.....	Omitted.
370f.....	536, 537.
370g.....	101 (6), 512.
370h—370k.....	512.
370l.....	536.
371—374.....	Omitted.
374a.....	511.
375.....	501 (1).
377—379.....	Omitted.
381 to 381-2.....	511.
381a.....	101 (3), (4), 534, 535.
381b.....	Omitted.
381c.....	534, 535.
381d.....	See 3404, 3405.
381e.....	101 (3).
381f.....	Omitted.
391.....	560.
392.....	561.
393.....	562 (a)—(c).
394.....	562 (d).
421.....	Omitted.
422.....	3104.
423.....	Omitted.
424.....	101, 753.
424a.....	301 (2) (A), 501 (2).
425.....	Omitted.
426.....	210 (c), 212 (a), 3001 (a).
427.....	Omitted.
428.....	214.
429.....	Omitted.
430.....	230.
431, 432.....	Omitted.

Title 38 former sections:	Title 38 new sections
433.....	211 (b), 212 (b).
434.....	233 (c), 611 (a).
435.....	5001.
436.....	5002.
437—438c.....	Omitted.
438d.....	5005.
438e.....	5004.
438f.....	Omitted.
438g.....	5002.
438h.....	Omitted.
438i.....	5005.
438j.....	5001.
438k.....	5002.
438l.....	5003.
438m.....	5005.
439.....	621.
440, 441.....	Omitted.
442.....	755, 756.
443.....	755, 756.
444.....	Omitted.
445.....	Omitted.
445a.....	784 (a)—(h).
445b.....	784 (i).
445c.....	784 (h).
445d.....	784 (b), (h).
446.....	Omitted.
447.....	754, 3103, 3504.
448, 449.....	Omitted.
450.....	3202.
451, 452.....	Omitted.
453.....	3102.
454.....	753, 754.
454a.....	3101.
455.....	5012 (a).
456.....	3301.
457.....	234.
458.....	626.
459.....	Omitted.
459a.....	232.
459b.....	3304.
459c.....	782.
459d.....	See 3022.
459e—462.....	Omitted.
471.....	3107 (a), (b).
471a.....	Omitted.
471a-1.....	314 (a)—(j).
471a-2.....	Omitted.
471a-3.....	314 (a)—(p), 541—544.
471a-4.....	Omitted.
471a-5.....	314 (a)—(j).
472 to 472b-1.....	Omitted.
472c.....	302.
472d.....	3010 (c).
472e—476.....	Omitted.
477.....	355.
478.....	Omitted.
479.....	3201.
480.....	3107 (a), (b), 3203.
481—485.....	Omitted.
486.....	3107 (a), (b).
487.....	102 (b) (1).
488, 488a.....	109 (a).
489—496.....	Omitted.
497.....	625.
498—501.....	Omitted.
501a, 501a-1.....	351.
501b, 502.....	Omitted.
503.....	503 (1), (5), 541, 542, 545.
504.....	537, 541—544.
505.....	541, 542.
505a.....	101 (3), 302, 541, 542.
506.....	Omitted.
507.....	3001 (b).
507a.....	3102.
507b.....	543, 544.
508—510.....	Omitted.
511.....	741, 743, 757 (a), 782.
511a.....	Omitted.
512.....	742—745, 749—752.
512a.....	741.
512b.....	748.
512b-1.....	744 (c).

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Title 38 former sections: Title 38 new sections

512c	758.
512d	757.
513	757 (b).
514	750.
515	759 (a), (b).
516	759.
516a, 516b	Omitted.
517	760.
518	747.
531—539	Omitted.
551	3401, 3404, 3405.
552	787 (b), 3502.
553	3502.
554	3502.
555, 555a	3503.
556, 556a	3501.
557	Omitted.
571—576	Omitted.
581—583	Omitted.
591	Omitted.
592	301.
601—603	Omitted.
611—623	Omitted.
631, 632	Omitted.
641—650	Omitted.
661—670	Omitted.
681—683	Omitted.
686—688b	Omitted.
691	Omitted.
691a	2101.
691b	2102.
691c	2104.
691d	2103.
691e	2104.
691f	101.
691g	Omitted.
693	5012 (b).
693a	230.
693b	5003.
693c	Omitted.
693d	613, 5013.
693e	Omitted.
693f	3402.
693g	3103.
693h	T. 10, § 1553.
693i	T. 10, § 1554.
694 (a)	1801 (a) (1), (2), 1802 (a), (b), 1803 (a), (1), (b).
694 (b)	1803 (b) (2), (c), (d).
694 (c)	1802 (c).
694 (d)	1802 (d), (f)
694 (e)	1802 (d).
694 (f)	1802 (e).
694 (g)	1803 (a) (2).
694a	1810.
694b	1812.
694c	1813.
694c-1	1822.
694d	212 (a), 1804.
694e	T. 7, § 1001 (b) (2).
694f	Omitted.
694g	1816, 1817.
694h	1814.
694i	1815.
694j	1820 (a)—(c).
694k	1821.
694l	1811 (a)—(j).
694m	1811 (k), 1823.
694n	1804 (A).
694o, 694p	Omitted.
695	2010.
695a	2011.
695b	2012.
695c	2013.
695d	Omitted.
695e	2014.
695f—696m	Omitted.
697(a)	213.
697(b)	616.
697a, 697b	Omitted.
697c	101 (2).

Title 38 former sections: Title 38 new sections

697d	214.
697e	Omitted.
697f	109 (b).
697g	1510, 1824.
700	101 (13).
701 (a)—(e), (g)	Omitted.
701(f)	1502 (a).
701a	1502 (b).
702—704a	Omitted.
705	211.
706	610, 621 (2), 622.
706a	610, 612 (e).
706b	610.
706c	Omitted.
707	210, 611 (a).
708	212.
709	3001 (a), 3010 (a), 4004.
710, 711	Omitted.
712	T. 18, § 1621.
713, 714	3502.
715	3503 (a).
715a	3503 (b), (c).
716	Omitted.
717	902.
718—724	Omitted.
725	102, (a) (1), (2) (A).
726	354.
727	537.
728	3504.
729	3108.
729a, 729b	3109.
730, 731	Omitted.
732	3010 (b).
733	3010 (e).
734	Omitted.
735	101 (3), 543, 544.
736—738	Omitted.
739	3107 (a), (b), 3203.
740	315.
741	335.
742—744	Omitted.
745	101 (3), (4), (9), 543, 544, 602.
746	110.
747—749	Omitted.
750	511, 512, 521 (a), 531, 532 (a), (b), 533, 535—537, 541—544.
Vet. Reg. No. 1 (A) Pts. I—VI, VIII, IX.	Omitted.
Pt. VII	217, 351, 1501—1508, 3013, 3107 (c).
Vet. Reg. Nos. 2 (A)—12	Omitted.
801	101, 701.
802 (a)	703.
802 (b), (c) (1)	Omitted.
802 (c) (2)	719 (b).
802 (d)	Omitted.
802 (e)	702.
802 (f)	704—707.
802 (g)	701 (3), 716 (b), 717 (a).
802 (h)	716 (a), (b).
802 (i)	716 (d).
802 (j), (k)	716 (e).
802 (l)	716 (f).
802 (m) (1)	708.
802 (m) (2)	Omitted.
802 (n)	712.
802 (o)	Omitted.
802 (p)	709.
802 (q)	703.
802 (r)	713.
802 (s)	Omitted.
802 (t)	717 (b), (c).
802 (u)	717 (d).
802 (v) (1)	715, 719.
802 (v) (2)	719, 721 (d).
802 (w)	710.
802 (x)	783.
802 (y)	Omitted.
802 (z)	714.
803	703, 741.
804	719 (a).
805	720.

Title 38 former sections:	Title 38 new sections	Title 38 former sections:	Title 38 new sections
805a.....	786.	1034.....	1762.
806.....	782.	1035.....	1763.
807.....	721 (a)—(c).	1036.....	1764.
808.....	210—212, 735.	1037.....	1765.
809.....	3102.	1033.....	1766.
810.....	108.	1039.....	1767.
811.....	Omitted.	1040.....	1768.
812.....	711.	1041.....	T. 18, §§ 1001, 1021.
813.....	787 (b).	1042.....	Omitted.
814.....	3502 (b).	1043.....	3102.
815.....	787 (a).	1044, 1045.....	Omitted.
816.....	718.	1051.....	1710.
817.....	784.	1052.....	1711.
818-820.....	Omitted.	1053.....	1712.
821.....	722 (a), (c).	1054.....	1713.
822.....	723.	1055.....	1714.
823.....	724 (b).	1061.....	1720.
824.....	781.	1062.....	1721.
851—857.....	Omitted.	1063.....	1722, 1723.
858.....	3101.	1064.....	1723.
901.....	1601 (c).	1065.....	1724.
911.....	101 (10), (20), 1601 (a).	1066.....	1725.
916.....	1610.	1067.....	1726.
917.....	1612.	1068.....	1731.
918.....	1613.	1069.....	1732.
919.....	1611.	1070.....	1733.
926.....	1620.	1071.....	1734.
927.....	1621.	1072.....	1735.
928.....	1622.	1073.....	1736.
929.....	1623 (a), (b).	1074.....	1737.
930.....	1624.	1081.....	1740.
931.....	1623 (c).	1082.....	1741.
932.....	1625.	1083.....	1742.
933.....	1626.	1084.....	1743.
941.....	1631.	1101 (1).....	101 (1).
942.....	1632.	1101 (2) (A)—(C).....	Omitted.
943.....	1633.	1101 (2) (D).....	403.
944.....	1634.	1101 (2) (E).....	106 (b).
951.....	1641.	1101 (3).....	101 (27).
952.....	1642.	1101 (4).....	101 (21).
953.....	1643.	1101 (5).....	101 (22).
954.....	1644.	1101 (6).....	101 (22), (23), 106.
955.....	1645.	1101 (7).....	101 (4), (5).
961.....	1651.	1101 (8).....	101 (3), 404.
962.....	1652.	1101 (9).....	101 (25).
963.....	1653.	1101 (10) (A).....	401 (1).
964.....	1654.	1101 (10) (B).....	403.
965.....	1655.	1101 (11) (A).....	402 (a).
966.....	1656.	1101 (11) (B).....	402 (b), 403.
971 (a).....	1661 (a).	1101 (11) (C).....	402 (c) (2).
971 (b).....	213.	1101 (11) (D).....	421 (b).
971 (c).....	111, 1661 (b).	1101 (11) (E).....	402 (c) (1).
972.....	1662 (a).	1101 (11) (F).....	421 (a).
973.....	1663.	1101 (12).....	106 (c).
974.....	1664.	1102.....	3005.
975.....	1665.	1103 (a).....	412.
975a.....	1665 (b).	1103 (b)—(d).....	422.
976.....	1666.	1111.....	101 (14), 410 (a).
977.....	1667.	1112.....	411.
978.....	1668.	1113.....	413.
979, 980.....	Omitted.	1114.....	414.
981.....	3102.	1115.....	415.
982.....	1669.	1116.....	101 (14), 416.
983, 984.....	Omitted.	1117.....	410 (a).
991.....	2001.	1118.....	417 (b).
992.....	2002.	1119.....	101 (3), 410 (b), 3010 (c), (d), 3011, 3012, 3102, 3104 (b) (2), 3106, 3301.
993.....	2003.	1120.....	3101.
994.....	2004.	1131—1133 (a).....	Omitted.
995.....	2005.	1133 (b).....	423.
996.....	2006.	1133 (c)—(e).....	Omitted.
997.....	2007.	1134.....	Omitted.
998.....	2008.	2101.....	101, 501 (1).
999.....	2009.	2102 (a).....	102 (a) (1).
1011.....	2101.	2102 (b).....	102 (a) (2) (B).
1012.....	2102.	2102 (c).....	102 (a) (3).
1013.....	2104.	2103.....	103 (a)—(c).
1014.....	2103.	2104.....	104.
1015.....	2105.	2105.....	105.
1016.....	101 (4), (10).	2106.....	101 (18).
1031.....	1701 (d).	2107.....	102 (b) (1), (2).
1032.....	101 (10), (25), 1701 (a)—(c).		
1033.....	111, 213, 1662 (b), 1761.		

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Title 38 former sections:	Title 38 new sections	Title 38 former sections:	Title 38 new sections
2121.....	111.	2501.....	601.
2122.....	108.	2502.....	602.
2123.....	3303.	2510.....	610.
2124.....	101 (21) (D), 106 (a).	2511.....	611.
2125.....	107.	2512.....	612.
2126.....	3109.	2513.....	613.
2127.....	109 (a).	2514.....	614.
2128.....	110.	2515.....	615.
2141—2144.....	Prec. Pt. 1 note.	2521.....	621.
2145—2147.....	Omitted.	2522.....	622.
2148, 2149.....	Prec. Pt. 1 note.	2523.....	623.
2150.....	Omitted.	2524.....	624.
2201.....	201.	2525.....	625.
2202.....	202.	2526.....	626.
2210.....	210.	2527.....	627.
2211.....	211, 785.	2531.....	631.
2212.....	212.	2532.....	632.
2213.....	214.	2533.....	633.
2214.....	215.	2534.....	634.
2215.....	216.	2601.....	801.
2216.....	3304.	2602.....	802.
2230.....	230.	2603.....	803.
2231.....	231.	2604.....	804.
2232.....	232.	2605.....	805.
2233.....	233.	2701.....	1901.
2234.....	234.	2702.....	1902.
2235.....	Omitted.	2703.....	1903.
2301.....	301.	2704.....	1904.
2302.....	302.	2705.....	1905.
2310.....	310.	2801.....	901.
2311.....	106 (b), 315.	2802.....	902.
2312.....	311.	2803.....	903.
2313.....	312.	2804.....	904.
2314.....	313.	2805.....	905.
2315.....	314.	2901.....	3001.
2316.....	315.	2902.....	3001 (a), (b), 3002.
2321.....	321.	2903.....	3003.
2322.....	322.	2904.....	3004.
2331.....	331.	2910.....	3010.
2332.....	103 (b).	2911.....	3011.
2333.....	332.	2912.....	3012.
2334.....	333.	2920.....	3020.
2335.....	334.	2921.....	3021.
2336.....	335.	2922.....	3022.
2337.....	336.	3001.....	753, 3101.
2341.....	341.	3002.....	3102.
2342.....	342.	3003.....	3103.
2343.....	343.	3004.....	3104.
2351.....	351.	3005.....	3105.
2352.....	352.	3006.....	3106.
2353.....	353.	3007.....	3107.
2354.....	354.	3008.....	3108.
2355.....	355.	3101.....	3501.
2356.....	356.	3102.....	3502.
2357.....	357.	3103.....	3503.
2358.....	358.	3104.....	3504.
2401.....	501.	3201.....	3301.
2402.....	502.	3202.....	3302.
2403.....	503.	3211.....	3311.
2404.....	504.	3212.....	3312.
2405.....	505.	3213.....	3313.
2410.....	510.	3301.....	4001.
2411.....	511.	3302.....	4002.
2412.....	512.	3303.....	4003.
2421.....	521.	3304.....	4004.
2422.....	522.	3305.....	4005.
2423.....	523.	3306.....	4006.
2431.....	531.	3307.....	4007.
2432.....	532.	3308.....	4008.
2433.....	533.	3401.....	4101.
2434.....	534.	3402.....	4102.
2435.....	535.	3403.....	4103.
2436.....	536.	3404.....	4104.
2437.....	537.	3405.....	4105.
2441.....	541.	3406.....	4106.
2442.....	542.	3407.....	4107.
2443.....	543.	3408.....	4108.
2444.....	544.	3409.....	4109.
2445.....	545.	3410.....	4110.
2460.....	560.	3411.....	4111.
2461.....	561.	3412.....	4112.
2462.....	562.		

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3413.....	4113.
3414.....	4114.
3415.....	4115.
3501.....	3201.
3502.....	3202.
3503.....	3203.
3504.....	3204.
3601.....	3401.
3602.....	3402.
3603.....	3403.
3604.....	3404.
3605.....	3405.
3701.....	5001.
3702.....	5002.
3703.....	5003.
3704.....	5004.
3705.....	5005.
3711.....	5011.
3712.....	5012.
3713.....	5013.
3714.....	5014.
3715.....	5015.
3716.....	5016.
3801.....	5101.
3802.....	5102.
3803.....	5103.
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ENACTING CLAUSE

Section 1 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105, provided in part: "That the laws relating to veterans' benefits are revised, codified, and enacted as title 38, United States Code, 'Veterans' Benefits'".

EFFECTIVE DATE

Section 2 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1262, provided that: "Except as otherwise provided in this Act, this Act shall take effect on January 1, 1959."

OFFENSES COMMITTED UNDER REPEALED LAWS

Section 3 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1262, provided that:

"(a) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act or the Veterans' Benefits Act of 1957 may be prosecuted and punished in the same manner and with the same effect as if such Acts had not been enacted.

"(b) Forfeitures of benefits under laws administered by the Veterans' Administration occurring before January 1, 1959 shall continue to be effective."

CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

Section 4 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1262, provided that: "All functions, powers, and duties con-

ferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect."

CROSS REFERENCES

Section 5 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1262, provided that:

"(a) References in other laws to any provision of law replaced by title 38, United States Code, shall, where applicable, be deemed to refer also to the corresponding provision of title 38, United States Code.

"(b) References in title 38, United States Code, to any provision of title 38, United States Code, shall, where applicable, be deemed to refer also to the prior corresponding provisions of law.

"(c) Amendments effective after August 18, 1958, made to any provision of law replaced by title 38, United States Code, shall, notwithstanding the repeal of such provision by section 14 of this Act, supersede the corresponding provisions of title 38, United States Code, to the extent that such amendments are inconsistent therewith."

CONTINUING AVAILABILITY OF APPROPRIATIONS

Section 6 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1263, provided that:

"(a) Amounts heretofore appropriated to carry out the purposes of any provision of law repealed by this Act, and available on December 31, 1958, shall be available to carry out the purposes of the corresponding provisions of title 38, United States Code.

"(b) The availability and use of appropriations made for the purposes of the Act of July 1, 1948 (62 Stat. 1210; 50 App. U. S. C. 1991-1996) shall not be affected by the repeal of such Act."

OUTSTANDING RULES, REGULATIONS, AND ORDERS

Section 7 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1263, provided that: "All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator."

PUBLICATION

Section 8 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1263, provided that: "This Act shall be printed in slip-law form with a table of contents and a comprehensive index and tables furnished by the Committee on Veterans' Affairs of the House of Representatives; however, such table of contents, comprehensive index and tables shall not be printed in the United States Statutes at Large."

PENDING CLAIMS

Section 9 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1263, provided that: "A claim for benefits which is pending in the Veterans' Administration on January 1, 1959, or filed thereafter, shall be adjudicated under the laws in effect on December 31, 1958, with respect to the period before January 1, 1959, and, except as provided in section 10, under title 38, United States Code, thereafter."

PERSONS RECEIVING BENEFITS ON DECEMBER 31, 1958

Section 10 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1263, provided that: "Any individual receiving benefits as a veteran, or as the widow, child, or parent of a veteran, under public laws administered by the Veterans' Administration on December 31, 1958, shall, as long as entitlement under such laws continues, receive benefits under the corresponding provisions of title 38, United States Code, thereafter, or benefits at the rate payable under such public laws, whichever will result in the greater benefit being paid to the individual. The provisions of this section shall apply to those claims within the purview of section 9 in which it is determined that benefits are payable for December 31, 1958."

PERSONS ENTITLED TO EMERGENCY OFFICERS' RETIREMENT PAY ON DECEMBER 31, 1958, OR WHO FAILED TO SUBMIT APPLICATIONS PRIOR TO MAY 25, 1929

Section 11 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1263, as amended by Pub. L. 87-875, Oct. 24, 1962, 76 Stat. 1198, provided that:

"(a) Any person who was receiving, or entitled to receive, emergency officers' retirement pay, or other privileges or benefits as a retired emergency officer of World War I, on December 31, 1958, under the laws in effect on that day, shall, except where there was fraud, clear and unmistakable error as to conclusion of fact or law, or misrepresentation of material facts, continue to receive, or be entitled to receive, emergency officers' retirement pay at the rate otherwise payable on December 31, 1958, and such other privileges, benefits, so long as the conditions warranting such pay, privileges, and benefits under those laws continue.

"(b) Any individual who, upon application therefor before May 25, 1929, would have been granted emergency officer's retirement pay based upon 30 per centum or more disability under the Act of May 24, 1928 (45 Stat. 735), and who would have been entitled to continue to receive such pay under section 10 of Public Numbered 2, Seventy-third Congress, or under section 1 of Public Numbered 743, Seventy-sixth Congress, and who upon being placed on the emergency officers' retired list would have been paid retired pay at a monthly rate lower than the monthly rate of disability compensation then payable, shall, upon application made therefor after the date of enactment of this subparagraph [Oct. 24, 1962] to the Administrator of Veterans' Affairs, be placed upon the appropriate emergency officers' retired list, and thereafter shall be entitled to all rights, privileges, and benefits of retired emergency officers of World War I."

CONTINUATION OF CERTAIN RIGHTS AND BENEFITS

Section 12 of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1264, provided that:

"(a) The repeal of part VIII, and paragraphs 10 and 11 of part VII, of Veterans Regulation Numbered 1 (a), sections 3 and 4 of Public Law 18, Seventy-eighth Congress, and section 1507 of the Servicemen's Readjustment Act of 1944, shall not apply in the case of any veteran (1) who enlisted or reenlisted in a regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, or (2) whose discharge or dismissal is changed, corrected, or modified before February 1, 1965, pursuant to section 1552 or 1553 of title 10, United States Code, or by other corrective action by competent authority.

"(b) Nothing in this Act or any amendment or repeal made by it, shall affect any right, liability, penalty, authorization or requirement pertaining to World War adjusted compensation authorized or prescribed under the provisions of the World War Adjusted Compensation Act, or the Adjusted Compensation Payment Act, 1936, or any related Act, which was in effect on December 31, 1958.

"(c) Nothing in this Act, or any amendment or repeal made by it, shall deprive any person of benefits under the Mustering-Out Payment Act of 1944 to which he would have been entitled if this Act had not been enacted.

"(d) Nothing in this Act, or any amendment or repeal made by it, shall affect any right of any person based on a contract entered into before the effective date of this Act, or affect the manner in which such right could have been enforced or obtained but for this Act, or such amendment or repeal.

"(e) Chapter 37 of title 38, United States Code, is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III."

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Chapter 1.—GENERAL

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AMENDMENTS

1964—Pub. L. 88-445, § 1(c), Aug. 19, 1964, 78 Stat. 464, substituted "Preservation of disability ratings" for "Preservation of total disability ratings" in item 110.

§ 101. Definitions.

For the purposes of this title—

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "widow" means (except for purposes of chapter 19 of this title) a woman who was the wife of a veteran at the time of his death, and who lived with him continuously from the date of marriage to the date of his death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after enactment of the 1962 amendment to this paragraph, lived with another man and held herself out openly to the public to be the wife of such other man.

(4) The term "child" means (except for purposes of chapter 19 of this title and section 5202(b) of this title) a person who is unmarried and—

(A) who is under the age of eighteen years;

(B) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(C) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-one years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse within two years after the veteran's death or the date of enactment of this sentence; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward his support from some individual other than the veteran or his spouse, or from any public or private welfare organization which furnishes services or assistance for children.

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before his entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

(6) The term "Spanish-American War" (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine

Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(7) The term "World War I" (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(8) The term "World War II" means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

(9) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on January 31, 1955.

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

(11) The term "period of war" means the Spanish-American War, World War I, World War II, the Korean conflict, and the period beginning on the date of any future declaration of war by the Congress and ending on a date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(12) The term "veteran of any war" means any veteran who served in the active military, naval, or air service during a period of war.

(13) The term "compensation" means a monthly payment made by the Administrator to a veteran because of service-connected disability, or to a widow, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Administrator to a widow, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a widow, child, or parent, in the case of such a death occurring before January 1, 1957.

(15) The term "pension" means a monthly payment made by the Administrator to a veteran because of service, age, or non-service-connected disability, or to a widow or child of a veteran because of the non-service-connected death of the veteran.

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(17) The term "non-service-connected" means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(18) The term "discharge or release" includes retirement from the active military, naval, or air service.

(19) The term "State home" means a home established by a State (other than a possession) for veterans of any war (including the Indian Wars) disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. Such term also includes such a home which furnishes nursing home care for veterans of any war.

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (a) while on transfer to one of the Armed Forces, or (b) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law; and

(D) authorized travel to or from such duty. The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 301 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an

authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

In the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(24) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

(25) The term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of the Treasury, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the Coast and Geodetic Survey.

(26) The term "Reserve" means a member of a reserve component of one of the Armed Forces.

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Naval Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Coast Guard Reserve;

(F) the National Guard of the United States; and

(G) the Air National Guard of the United States.

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. The term includes intensive care where the nursing service is under the supervision of a registered professional nurse. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106; Pub. L. 86-195, Aug. 25, 1959, 73 Stat. 424; Pub. L. 87-674, § 1, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87-815, § 3, Oct. 15, 1962, 76 Stat. 927; Pub. L. 88-450, § 4(c), (d), Aug. 19, 1964, 78 Stat. 504.)

REFERENCES IN TEXT

After the enactment of the 1962 amendment to this paragraph, referred to in par. (3), means after the enactment of Pub. L. 87-674, approved Sept. 19, 1962.

"The date of enactment of this sentence", referred to in par. (4), means August 25, 1959, the date on which Pub. L. 86-195 was approved.

Section 301 of Title 37, referred to par. (23), was repealed by Pub. L. 87-649, § 14, Sept. 7, 1962, 76 Stat. 498, and is now covered by sections 206 (a), (b), (d), 301(f), 309 (a), (b), (c), 402(b), and 1002(a)—(c) of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

1964—Par. (19). Pub. L. 88-450, § 4(c), included a home which furnishes nursing home care for veterans of any war within the definition.

Par. (28). Pub. L. 88-450, § 4(d), added par. (28).

1962—Par. (3). Pub. L. 87-674 added the requirement that a widow, in cases not involving remarriage, must not, since the death of the veteran and after the enactment of this amendment, have lived with another man and held herself out openly to the public to be the wife of such other man, and deleted words "(unless the purported remarriage is void)" which followed "who has not remarried."

Par. (26). Pub. L. 87-815 substituted "'Reserve' means a member" for "'Reserves' means members."

1959—Par. (4). Pub. L. 86-195 provided that a person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of the veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the surviving spouse of the veteran within two years after the veteran's death or Aug. 25, 1959, the date of enactment of Pub. L. 86-195, provided that such person was not receiving regular contributions toward his support from some individual other than the veteran or his spouse, or from any public or private welfare organization.

CROSS REFERENCES

General military law, see sections 101 and 261 of Title 10, Armed Forces.

§ 102. Dependent parents and dependent husbands.

(a) (1) Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Administrator.

(2) Except for purposes of chapter 33 of this title, dependency of a parent shall not be denied (A) solely because of remarriage, or (B) in any case in any State where the monthly income for a mother or father, not living together, is not more than \$105, or where the monthly income for a mother and father living together, is not more than \$175, plus, in either case, \$45, for each additional member of the family whom the father or mother is under a moral or legal obligation to support, as determined by the Administrator.

(3) For the purposes of this subsection in determining monthly income the Administrator shall not consider any payments under laws administered by the Veterans' Administration because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(b) For the purposes of this title (except chapters 19 and 33), (1) the term "wife" includes the husband of any female veteran if such husband is incapable of self-maintenance and is permanently incapable of self-support due to mental or physical disability; and (2) the term "widow" includes the widower of any female veteran if such widower is incapable of self-maintenance and was permanently

incapable of self-support due to physical or mental disability at the time of the veteran's death. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1109.)

§ 103. Special provisions relating to marriages.

(a) Whenever, in the consideration of any claim filed by a woman as the widow of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that she, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabitated with him for five or more years immediately before his death, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a widow has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not a woman is or was the wife of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d) The remarriage of the widow of a veteran shall not bar the furnishing of benefits to her as the widow of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(e) The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 87-674, § 2, Sept. 19, 1962, 76 Stat. 558.)

AMENDMENTS

1962—Subsecs. (d), (e). Pub. L. 87-674 added subsecs. (d) and (e).

§ 104. Approval of educational institutions.

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of twenty-one years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Administrator may approve or disapprove such educational institutions.

(b) The Administrator may not approve an educational institution under this section unless such institution has agreed to report to him the termination of attendance of any child. If any educational

institution fails to report any such termination promptly, the approval of the Administrator shall be withdrawn. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110.)

§ 105. Line of duty and misconduct.

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was the result of his own willful misconduct. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring him to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service, or by absenting himself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court). (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110.)

§ 106. Certain service deemed to be active service.

(a) (1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army Corps shall be considered active duty for the purposes of all laws administered by the Veterans' Administration.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under the Federal Employees' Compensation Act must elect which benefit she will receive.

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of his local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-

connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, an individual discharged or released from a period of active duty shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for him to proceed to his home by the most direct route, and in any event he shall be deemed to have continued on active duty until midnight of the date of such discharge or release.

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred by him while proceeding directly to or returning directly from such active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not he was disabled or died from injury so incurred, the Administrator shall take into account the hour on which he began so to proceed or to return; the hour on which he was scheduled to arrive for, or on which he ceased to perform, such duty; the method of travel employed; his itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 87-102, § 1, July 21, 1961, 75 Stat. 219; Pub. L. 88-616, Oct. 2, 1964, 78 Stat. 994.)

AMENDMENTS

1964—Subsec. (d)(2). Pub. L. 88-616 deleted "after December 31, 1956" which followed "Injury incurred."

1961—Subsec. (c). Pub. L. 87-102 extended the provisions for benefits based on limited periods immediately following discharge from active duty after December 31, 1956 to veterans discharged before such date.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87-102 provided that: "No monetary benefits shall accrue by reason of the amendments made by this Act [to subsec. (c) of this section] for any period prior to the date of enactment [July 21, 1961]."

§ 107. Certain service deemed not to be active service.

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any

law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

- (1) contracts of National Service Life Insurance entered into before February 18, 1946;
- (2) the Missing Persons Act; and
- (3) chapters 11, 13 (except section 412(a)), and 23 of this title.

Payments under such chapters shall be made at the rate of one peso for each dollar otherwise authorized, and where annual income is a factor in entitlements to benefits, the dollar limitations in the law specifying such annual income shall apply at the rate of one Philippine peso for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that his service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Veterans' Administration except—

- (1) with respect to contracts of National Service Life Insurance entered into (A) before May 27, 1946, (B) under section 620 or 621 of the National Service Life Insurance Act of 1940, or (C) under section 722 of this title; and
- (2) chapters 11 and 13 (except section 412(a)) of this title.

Payments under such chapters shall be made at the rate of one peso for each dollar otherwise authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at the rate of one Philippine peso for each dollar. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1111; Pub. L. 87-268, § 1(b), Sept. 21, 1961, 75 Stat. 566.)

REFERENCES IN TEXT

The Missing Persons Act, referred to in subsec. (a)(2), is classified to sections 1001-1012, and 1013-1016 of Appendix to Title 50, War and National Defense.

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in subsec. (b), means section 14 of act Oct. 6, 1945, c. 393, 59 Stat. 543, which is not classified to this Code.

Section 620 or 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (b)(1), is a reference to sections 620 and 621 of act Oct. 8, 1940, c. 757, title VI, Pt. I, as added Apr. 28, 1951, c. 39, Pt. II, § 10, 65 Stat. 36, which were repealed by Pub. L. 85-857, § 14 (75), Sept. 2, 1958, 72 Stat. 1272, and are now covered by sections 722 (a), (c), 723, and 724 of this title.

AMENDMENTS

1961—Pub. L. 87-268 substituted "section 412(a)" for "sections 412" wherever appearing.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of section by Pub. L. 87-268 effective on Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as a note under section 412 of this title.

§ 108. Seven-year absence presumption of death.

(a) No State law providing for presumption of death shall be applicable to claims for benefits un-

der laws administered by the Veterans' Administration.

(b) If evidence satisfactory to the Administrator is submitted establishing the continued and unexplained absence of any individual from his home and family for seven or more years, and establishing that after diligent search no evidence of his existence after the date of disappearance has been found or received, the death of such individual as of the date of the expiration of such period shall be considered as sufficiently proved.

(c) Except in a suit brought pursuant to section 784 of this title, the finding of death made by the Administrator shall be final and conclusive. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1112.)

§ 109. Benefits for discharged members of allied forces.

(a) (1) In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans' Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Veterans' Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans' Administration from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any

similar benefit from the government in whose armed forces he served. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1112.)

§ 110. Preservation of disability ratings.

A rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Veterans' Administration, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud. A disability which has been continuously rated at or above any percentage for twenty or more years for compensation purposes under laws administered by the Veterans' Administration shall not thereafter be rated at less than such percentage, except upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Administrator as the date on which the status commenced for rating purposes. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 87-825, § 6, Oct. 15, 1962, 76 Stat. 950; Pub. L. 88-445, § 1 (a), (b), Aug. 19, 1964, 78 Stat. 464.)

AMENDMENTS

1964 Pub. L. 88-445 substituted "Preservation of disability ratings" for "Preservation of total disability ratings" in the catchline, and inserted sentence directing that a disability which has been continuously rated at or above any percentage for twenty or more years for compensation purposes shall not thereafter be rated at less than such percentage, except upon a showing that such rating was based on fraud.

1962—Pub. L. 87-825 provided for computation of the period from the date the Administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 7 of Pub. L. 87-825 provided that: "This Act [adding section 3110 of this title, amending this section, and sections 351, 359, 3010, and 3012 of this title, and repealing sections 3004 and 3011 of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [Oct. 15, 1962], but no payments shall be made by reason of this Act for any period before such effective date. Payments for any period before such effective date shall be made under prior laws and regulations. The provisions of this Act with respect to reductions and discontinuances shall be applicable only where the event requiring such reduction or discontinuance occurs on or after such effective date. If such event occurred before such effective date, action shall be taken pursuant to the prior laws and regulations."

§ 111. Travel expenses.

(a) Under regulations prescribed by the President, the Administrator may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation, counseling required by the Administrator pursuant to chapter 33 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mileage allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(b) Mileage may be paid under this section in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, before the completion of travel.

(c) When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(d) The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility. (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 86-590, July 5, 1960, 74 Stat. 329.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-590 allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

EXECUTIVE ORDER NO. 10810

Ex. Ord. No. 10810, Apr. 22, 1959, 24 F.R. 3179, as amended by Ex. Ord. No. 10881, July 6, 1960, 25 F.R. 6414, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479, set out as a note under this section.

EX. ORD. NO. 11142. REGULATIONS GOVERNING ALLOWANCES

Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479, provided:

By virtue of the authority vested in me by Section 111 of Title 38 of the United States Code [this section], it is hereby ordered as follows:

SECTION 1. The Administrator of Veterans' Affairs may authorize or approve the payment of the actual necessary expenses of travel, including lodging and subsistence, of any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. The Administrator may authorize or approve such payment to the claimant or beneficiary, or, in his discretion, to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 2. The Administrator of Veterans' Affairs may authorize or approve in lieu of actual necessary expenses of travel, including lodging and subsistence, payment of an allowance of not more than five cents a mile to any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. In addition to such mileage allowance, the Administrator may allow reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. In his discretion, the Administrator may authorize or approve such payment and such reimbursement to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence. The payment of mileage allowances and reimbursement for ferry fares, and bridge, road, and tunnel tolls in connection with vocational rehabilitation or counseling, or upon termination of examination, treatment, or care may be made prior to completion of such travel.

SEC. 3. Whenever a claimant or beneficiary requires an attendant other than an employee of the Veterans' Administration for the performance of travel specified in Sections 1 and 2 hereof, the travel expenses of such attendant may be allowed in the same manner and to the same extent that travel expenses are allowed to such claimant or beneficiary.

SEC. 4. The Administrator of Veterans' Affairs may prescribe such rules and regulations not inconsistent herewith as may be necessary to effectuate the provisions of this order.

SEC. 5. Executive Order No. 10810 of April 22, 1959, and Executive Order No. 10881 of July 6, 1960, are hereby superseded.

LYNDON B. JOHNSON